

REMARKS

The Office Action dated January 19, 2007 was received and carefully reviewed. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 1-7 were pending prior to the instant amendment. By this amendment, claims 1, 3-5 and 7 are amended. Consequently, claims 1-7 are currently pending in the instant application. In view of these actions and the following remarks, reconsideration of this application is now requested.

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which is referred to as the invention in this matter. The claims have been amended to include proper antecedent basis. It is believed that the amended claims are in compliance.

Claim 1 was rejected under 35 U.S.C. §102(e) as being anticipated by Shear (U.S. 6,209,976). Shear, however, fails to render the claimed invention unpatentable. Each of the claims recite a specific combination of features that distinguishes the invention from the prior art in different ways. For example, independent claim 1 recites a combination that includes, among other things:

a plurality of frame components including a top frame component, a bottom frame component and side frame components . . . a plurality of panels . . . and means for interconnecting said plurality of assembled frame components and panel components to form an assembly, said interconnecting means comprising a U-shaped channel formed along the entire periphery of each of the plurality of frame components, each U-shaped channel comprising a first leg portion and a second leg portion having a base portion connected therebetween, said second leg portion including a lip portion attached generally perpendicular to an end thereof, wherein during assembly the channel of a one of said frame components is inserted within a channel of another one of said frame components and a portion of the lip portion of said one of said frame components is abutted against the base portion of said another one of said frame components to lock the frame components and panel components together along the length thereof, (claim 1, ll. 2-16).

At the very least, Shear fails to disclose or suggest any of these exemplary features recited in the independent claim 1.

To establish anticipation under 35 U.S.C. § 102(b), the Examiner must show that each and every feature recited in these claims is either explicitly disclosed or “necessarily present” in a single prior art reference, such as within the four corners of the Shear patent. *See* M.P.E.P. § 2131(7th ed. 1998); *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999); *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991). To support a conclusion of anticipation, the Examiner must specifically identify “substantial evidence” setting forth why and how the single prior art reference anticipates each and every feature recited in the claims. *See In re Mullin*, 481 F.2d 1333, 1336-37 (CCPA 1973) (An Examiner’s bare assertion that claims were anticipated by a reference did not inform the Applicant as to why the claims lacked novelty); *Dickinson v. Zurko*, 527, U.S. 150 (1999) (The U.S. Patent Office’s findings of fact must be reviewed by the substantial evidence standard).

Viewed against this backdrop, each of the Examiner’s factual conclusions must be supported by “substantial evidence” in the documentary record. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 2002). The Examiner has the burden of documenting all findings of fact necessary to support a conclusion of anticipation or obviousness “less to ‘haze of so-called expertise’ acquire insulation from accountability.” *Id.* To satisfy this burden, the Examiner must specifically identify where support is found within the prior art to meet the requirements of 35 U.S.C. §§ 102(b). In this case, however, the Examiner cannot satisfy his burden of demonstrating how Shear, taken alone or in combination with any other prior art reference, can either render obvious each and every one of the limitations present in independent claim 1 as required by the Manual of Patent Examining Procedure (“MPEP”) and Federal Circuit jurisprudence.

Shear discloses a cabinet box having two side panels such that each has an inset, protruding wall face formed by, and relative to, recessed or pocketed ends located at the top and bottom thereof, respectively. The side panels are identical in shape and configuration. Top and bottom panels are configured so that their ends fit snugly into the side panel pockets and into the top and bottom pockets of a back panel.

In accordance with a feature of the invention, claim 1 recites the interconnecting means comprising a U-shaped channel formed along the entire periphery of each of the plurality of frame components, each U-shaped channel comprising a first leg portion and a second leg portion having a base portion connected therebetween, said second leg portion including a lip portion attached generally perpendicular to an end thereof, wherein during assembly the channel of a one of said frame components is inserted within a channel of another one of said frame components and a portion of the lip portion of said one of said frame components is abutted against the base portion of said another one of said frame components to lock the frame components and panel components together along the length thereof. Shear fails to teach at least these features of the invention. While the Examiner argues that Shear discloses an interlocking component assembly, Shear does not teach the lip portion nor the insertion of the frame components such that the lip portion is abutted as claimed. The assembly, as recited in claim 1, may prove advantageous over the prior art by providing an interlocking component assembly with increased support strength of the components in a final assembly.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02). Since each and every element, as set forth in the claims are not found either expressly or inherently described as required by the M.P.E.P., Shear

cannot be said to anticipate the invention as claimed. Hence, withdrawal of the rejection is respectfully requested.

Claims 2-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shear in view of Nakano et al. (U.S. 5,360,263) and van der Heiden et al. (U.S. 4,173,379). However, dependent claims 2-3 ultimately rely upon independent claim 1 which recites a specific combination of features that distinguishes the invention from the prior art in different ways as outlined above. Furthermore, claims 4-7 recite another specific combination of features that distinguishes the invention from the prior art in different ways. For example, independent claim 4 recites a combination that includes, for example,

providing a plurality of integral frame and panel components . . . wherein each of the plurality of frame and panel components include a U-shaped channel formed about an entire periphery of the frame and panel components, each U-shaped channel comprising a first leg portion and a second leg portion having a base portion connected therebetween, said second leg portion including a lip portion attached generally perpendicular to an end thereof . . . interconnecting the U-Shaped channel of each of said top frame and panel component, bottom frame and panel component, and side frame and panel components to a respective adjacent frame and panel component, wherein during interconnection, a U-shaped channel of one frame and panel component is inserted within a U-shaped channel of an adjacent frame and panel component and a portion of the lip portion of said one frame and panel component is abutted against the base portion of said adjacent frame and panel component to lock the frame and panel components together along the length thereof, (claim 4, ll. 3-17).

At the very least, the applied reference fails to disclose or suggest any of these exemplary features recited in independent claims 1 and 4.

The Examiner has failed to establish a *prima facie* case of obviousness for at least four reasons. First, the Examiner has not demonstrated how Shear in view of Nakano et al. and van der Heiden et al., whether taken alone or in combination, disclose or suggest each and every feature recited in the claims. See M.P.E.P. § 2143 (7th ed. 1998). Second, the Examiner has not shown the existence of any reasonable probability of success in modifying Shear, the base reference, based on the teachings of Nakano et al. and van der Heiden et al.,

the secondary references, in a manner that could somehow result in the claimed invention. *See id.* Third, the Examiner has not identified any suggestion or motivation, either in the teachings of the applied reference or in the knowledge generally available to one of ordinary skill in the art, to modify Shear in a manner that could somehow result in the claimed invention. *See id.* Finally, the Examiner has not explained how his obviousness rationale could be found in the prior art — rather than being a hindsight reconstruction of Applicant's own disclosure. *See id.*

Each of the Examiner's factual conclusions must be supported by "substantial evidence" in the documentary record, as required by the Federal Circuit. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1435 (Fed. Cir. 2002). The Examiner has the burden of documenting all findings of fact necessary to support a conclusion of anticipation or obviousness "less the 'haze of so-called expertise' acquire insulation from accountability." *Id.* To satisfy this burden, the Examiner must specifically identify where support is found within the prior art to meet the requirements of 35 U.S.C. §§ 102(b) and 103. In this case, however, the Examiner has failed to satisfy his burden of demonstrating how Shear, taken alone or in combination with Nakano et al. and van der Heiden et al., can either anticipate or render obvious each and every one of the limitations present in independent claims 1 and 4 as required by the MPEP and Federal Circuit jurisprudence.

As previously outlined, the claimed invention recites a U-shaped channel comprising a first leg portion and a second leg portion having a base portion connected therebetween, said second leg portion including a lip portion attached generally perpendicular to an end thereof. The invention further provides that the lip portion of one frame components is abutted against the base portion of another frame component to lock the frame components and panel components together along the length thereof as recited in independent claim 1 and similarly in claim 4.

The cabinet box of Shear fails to teach the lip portion and abutment of the lip portion in combination with the U-shaped channel feature as claimed. Nakano et al. and van der Heiden et al. fail to cure the deficiencies of Shear. For example, Nakano et al. disclose self-locking panels connectable in a closed polygon. The Examiner merely employs Nakano et al. to allegedly disclose an interlocking component assembly having a locking tab received within a corresponding aperture. Moreover, van der Heiden et al. discusses a drawer, particularly a card index drawer comprising a bottom panel and four wall panels. Again, the Examiner merely employs van der Heiden et al. to allegedly disclose an interlocking component assembly to have a locking tab received within a corresponding aperture. But, neither Nakano et al. nor van der Heiden et al. disclose or fairly suggest the lip portion and U-shaped channel feature as recited in at least independent claims 1 and 4.

In accordance with the M.P.E.P. § 2143.03, to establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 196 (CCPA 1970). Therefore, it is respectfully submitted that neither Shear nor Nakano et al. and van der Heiden et al., taken alone or in any proper combination, discloses or suggests the subject matter as recited in independent claims 1 and 4. Hence, withdrawal of the rejection is respectfully requested.

Claims 2-3 ultimately depend from independent claim 1 and are patentable over the cited prior art for at least the same reasons as set forth above with respect to claim 1.

Claims 5-7 ultimately depend from independent claim 4 and are patentable over the cited prior art for at least the same reasons as set forth above with respect to claim 4.

In addition, each of the dependent claims also recite combinations that are separately patentable.

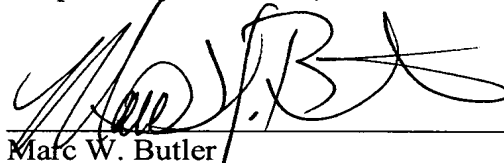
In view of the foregoing remarks, this claimed invention, as amended, is not rendered obvious in view of the prior art references cited against this application. Applicant therefore request the entry of this response, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this response, it is to be understood that Applicant in no way intends to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned patent agent at (202) 585-8234.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marc W. Butler', is written over a horizontal line.

Marc W. Butler
Registration No. 50,219

Nixon Peabody LLP
401 9th Street, N.W. Suite 900
Washington, D.C. 20004-2128
(202) 585-8000